

**KENTUCKY PERSONNEL BOARD
MINUTES OF JANUARY 10, 2020**

1. The regular monthly meeting of the Kentucky Personnel Board was called to order by Chair Haines on January 10, 2020, at approximately 9:30 a.m., at 1025 Capital Center Drive, Suite 105, Frankfort, Kentucky.

Board Personnel Present:

Mark O. Haines, Chair
Beverly Griffith, Vice Chair
Brian J. Crall, Member
William J. Byrley, Member
Catherine J. Monteiro, Member
Richard Waite, Member
Tanya Lawrence, Member
Mark A. Sipek, Executive Director and Secretary
Stafford Easterling, General Counsel
Cynthia Perkins, Administrative Section Supervisor
Gwen McDonald, Administrative Specialist

2. **READING OF THE MINUTES OF THE REGULAR MEETING HELD DECEMBER 13, 2019.**

The minutes of the last Board meeting had been previously circulated among the members. Chair Haines asked for any additions or corrections. Mr. Waite moved to approve the minutes as submitted. Ms. Monteiro seconded and the motion carried 6-0. The Board members signed the minutes.

(Chair Haines does not vote, unless noted.)

3. **EXECUTIVE DIRECTOR AND SECRETARY'S REPORT**

Mr. Sipek stated the number of new appeals to the Board increased in 2019 to 316, with 53 being filed in December.

Mr. Sipek reported that the 2018-19 Annual Report should be completed soon. The Board staff is waiting on grievance number reports from some Cabinets and agencies. Mr. Sipek felt that the reports should be in by February.

4. **REPORT OF THE PERSONNEL CABINET**

The Hon. Rosemary Holbrook was present on behalf of the Personnel Cabinet. She introduced the Cabinet's new Secretary, Gerina Whethers, to the Board. Secretary Whethers greeted the Board and stated she was looking forward to working with them.

Ms. Holbrook introduced the Commissioner of the Department of Employee Insurance, Jenny Goins, who presented a PowerPoint demonstration of the LivingWell program, a comprehensive approach to achieve better well-being. StayWell is the vendor chosen to track the tools, resources, and rewards of the program and to keep employees motivated and informed. StayWell offers various components on the LivingWell portal to engage employees, such as the health assessment, a helpline, health coaching, coach messaging, challenges, and other activities. Commissioner Goins answered questions from the Board about the program.

5. **ORAL ARGUMENTS - None**

6. **REVIEW OF INTERIM ORDER – ORAL ARGUMENT**

- A. **~~Stephen Knipper v. Governor's Office (Appeal No. 2019-037)~~**
- ~~--Appellee's Response to July 3, 2019 Interim Order~~
 - ~~--Appellant's Response to July 3, 2019 Interim Order~~
 - ~~--Appellee's Reply to Appellant's Response~~
 - ~~--Appellant's Reply to Appellee's Response~~
 - ~~--Lt. Governor's Office, Entry of Appearance and Provisional Petition~~
 - ~~--for Intervention and Motion for Continuance~~
 - ~~--Memorandum in Further Support of the Lieutenant Governor's Office~~
 - ~~--Provisional Petition to Intervene and Motion for Continuance~~
 - ~~--Lt. Governor's Office Supplemental Memorandum~~
 - ~~--Appellee's Response to Lt. Governor's Provisional Petition to Intervene and~~
 - ~~--Motion for Continuance~~
 - ~~--Lt. Governor's Office Response to July 3, 2019 Interim Order~~
 - ~~--Appellant's Reply to Lt. Governor's Response to July 3, 2019 Interim Order~~
- Deferred to September Board**
- Continued Generally**

- B. **Lori Scholl v. Tourism Arts & Heritage Cabinet/Parks (2018-014)**
--Hearing Officer's Interim Order dated December 6, 2019
--Personnel Cabinet's Petition for Limited Intervention and Request for Oral Argument
--Appellee's Response to Interim Order dated December 6, 2019

Counsel for the Appellant, the Hon. D. Wes Sullenger, counsel for the Appellee Tourism, Arts and Heritage Cabinet, the Hon. Evan Jones, and counsel for the Appellee Personnel Cabinet, the Hon. Catherine Stevens, were present. The parties answered questions from the Board.

Chair Haines stated the Board would discuss this matter in closed session.

Following closed session, Mr. Byrley, having considered the record, including the Hearing Officer's Interim Order dated December 6, 2019, the Personnel Cabinet's Petition for Limited Intervention and Request for Oral Argument, and the Appellee's Response to Interim Order dated December 6, 2019, moved that the December 6, 2019 Interim Order be upheld. Ms. Griffith seconded and the motion carried 5-0. Ms. Lawrence abstained.

7. CLOSED SESSION/RETURN TO OPEN SESSION

Ms. Monteiro moved that the Board go into Executive Session for the purposes of discussions and deliberations regarding individual adjudications. Ms. Lawrence seconded. Vice Chair Griffith stated that a motion had been made and seconded for the Personnel Board to retire into closed Executive Session, passed by a majority vote of the members present, with enough members present to form a quorum. [Pursuant to KRS 61.810(1)(j) and (k), the Kentucky Open Meetings Act, the Board retired into closed Executive Session. Specific justification under the Kentucky Open Meetings Act for this action were as follows, because there were deliberations regarding individual adjudications as listed on the Board's Agenda for the January 10, 2020 meeting.]

The closed session also considered matters mandated by KRS 11A.080 and 11A.110(1) to be kept confidential, which comports with the exception found in KRS 61.810(1)(k). (10:16 a.m.)

Mr. Waite moved to return to open session. Ms. Monteiro seconded and the motion passed by acclamation. (11:24 a.m.)

8. **CASES TO BE DECIDED**

The Board reviewed the following cases. At that time, the Board considered the record including the Hearing Officers' findings of fact, conclusions of law and recommendations, any exceptions and responses which had been filed, and oral arguments, where applicable.

A. **Charles Baker v. Department of Veteran Affairs (2019-071)**

Ms. Griffith, having considered the record, moved to accept the recommended order dismissing the appeal. Ms. Monteiro seconded and the motion carried 6-0.

B. **Patricia Miller v. Finance and Administration Cabinet (2018-214)**

Ms. Monteiro having considered the record, including Appellee's exceptions, and Appellant's response, moved to accept the recommended order dismissing the appeal. Ms. Lawrence seconded and the motion carried 6-0.

C. **Jennifer Milliner v. Cabinet for Health and Family Services (2019-080)**

Ms. Lawrence, having considered the record, moved to accept the recommended order dismissing the appeal. Ms. Griffith seconded and the motion carried 6-0.

D. **Deborah Newcom v. Cabinet for Health and Family Services (2019-198)**

Ms. Lawrence, having considered the record, moved to accept the recommended order dismissing the appeal. Ms. Monteiro seconded and the motion carried 6-0.

E. **Edward Via v. Transportation Cabinet (2019-111)**

Ms. Griffith, having considered the record, moved to accept the recommended order dismissing the appeal. Ms. Lawrence seconded and the motion carried 6-0.

Show Cause Orders – No Response Filed – Appeals Dismissed

F. **Brenda Mumphrey v. Tourism, Arts and Heritage Cabinet/Parks (2019-147)**

Ms. Griffith moved to accept the recommended order and to dismiss the appeal for failure to prosecute the appeal. Mr. Waite seconded and the motion carried 6-0.

9. **WITHDRAWALS**

Ms. Monteiro moved to accept the following withdrawals *en bloc* and to dismiss the appeals. Mr. Crall seconded and the motion carried 6-0. Ms. Lawrence abstained from Items B, E, F, and I.

- A. Cheryl Bogarty v. Cabinet for Health and Family Services (2019-091)
- B. Brooke Hart v. Education and Workforce Development Cabinet & Personnel Cabinet (2019-233)
- C. Ethan Keller v. Transportation Cabinet (2019-178)
- D. Matthew Logsdon v. Transportation Cabinet (2019-185)
- E. Anna Daugherty v. Cabinet for Health and Family Services & Personnel Cabinet (2019-183)
- F. Janet Gibson v. Personnel Cabinet (2019-247)
- G. Nicole Lowry-Hall v. Justice and Public Safety Cabinet/Corrections (2019-206)
- H. Corbin Bach v. Justice and Public Safety Cabinet/Corrections (2019-197)
- I. Tina Higgins v. Personnel Cabinet (19-271)

10. **SETTLEMENTS**

Mr. Waite moved to issue a settlement order and to sustain the appeal to the extent set forth in the settlement as submitted by the parties. Mr. Crall seconded and the motion carried 6-0.

- A. Londa Adkins v. Justice and Public Safety Cabinet/DPA (2019-139)

11. **OTHER**

Update on Investigations

- A. 2018-02
- B. 2018-03

(The investigations were discussed during closed session.)

- C. New Issue: General Counsel Stafford Easterling was offered a new position at another agency.

After discussion, the Board decided to review this matter further at the February 2020 meeting.

There being no further business, Ms. Griffith moved to adjourn the meeting. Ms. Monteiro seconded and the motion passed by acclamation. (11:58 a.m.)

Mark O. Haines, Chair



Beverly H. Griffith, Vice Chair

Brian J. Crall, Member



Catherine J. Monteiro, Member



Tanya Lawrence, Member

William J. Byrley, Member



Richard Waite, Member